

# **The GATS and trade in health services**

**October 2003**

# Structure of the presentation

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## What is the GATS?

- o Rationale
- o scope
- o Rules

## Does the GATS undermine domestic health objectives:

- o by preventing the pursuit of desirable policies,
- o by forcing privatization and/or foreign entry, or
- o by leading to premature liberalization?

# GATS: The rationale

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Health is primarily a domestic policy issue

## **What does the GATS offer?**



*Assumption:* there are gains from trade; but domestic political forces lead to trade barriers

### **The GATS could:**

- Facilitate reciprocal elimination of protection
- Lend credibility and predictability to policy
- Without threatening desirable regulation

# GATS: wide coverage

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-  All *measures* affecting trade in services
  - taken by all government levels (central, regional or local); and
  - taken by non-governmental bodies exercising powers delegated by government
-  All *services*, except “services supplied in the exercise of government authority” – defined as services that are supplied “neither on a commercial basis, nor in competition with one or more service suppliers”.

# GATS: wide definition of trade

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## **MODES**

1. Cross-border Trade

2. Consumption Abroad

3. Commercial Presence

4. Movement of Natural Persons

## **EXAMPLE (Health)**

Tele-diagnosis from country B into A

A's resident obtains hospital treatment in B


Hospital from B sets up subsidiary in A

Surgeon from B performs operation in A

# GATS: General rules

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The key general (“unconditional”) obligations are:

 Most-Favoured-Nation (MFN) treatment

 Transparency obligations

# Degree of market opening - Limitations on MA and NT

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## Limitations on market access (MA)

Quota-type and similar restrictions

(e.g. limitation on the number of foreign hospitals;  
limitation on foreign capital participation)

## Limitations on national treatment (NT)

Less favourable treatment granted to foreigners

(e.g. subsidies reserved for national hospitals)

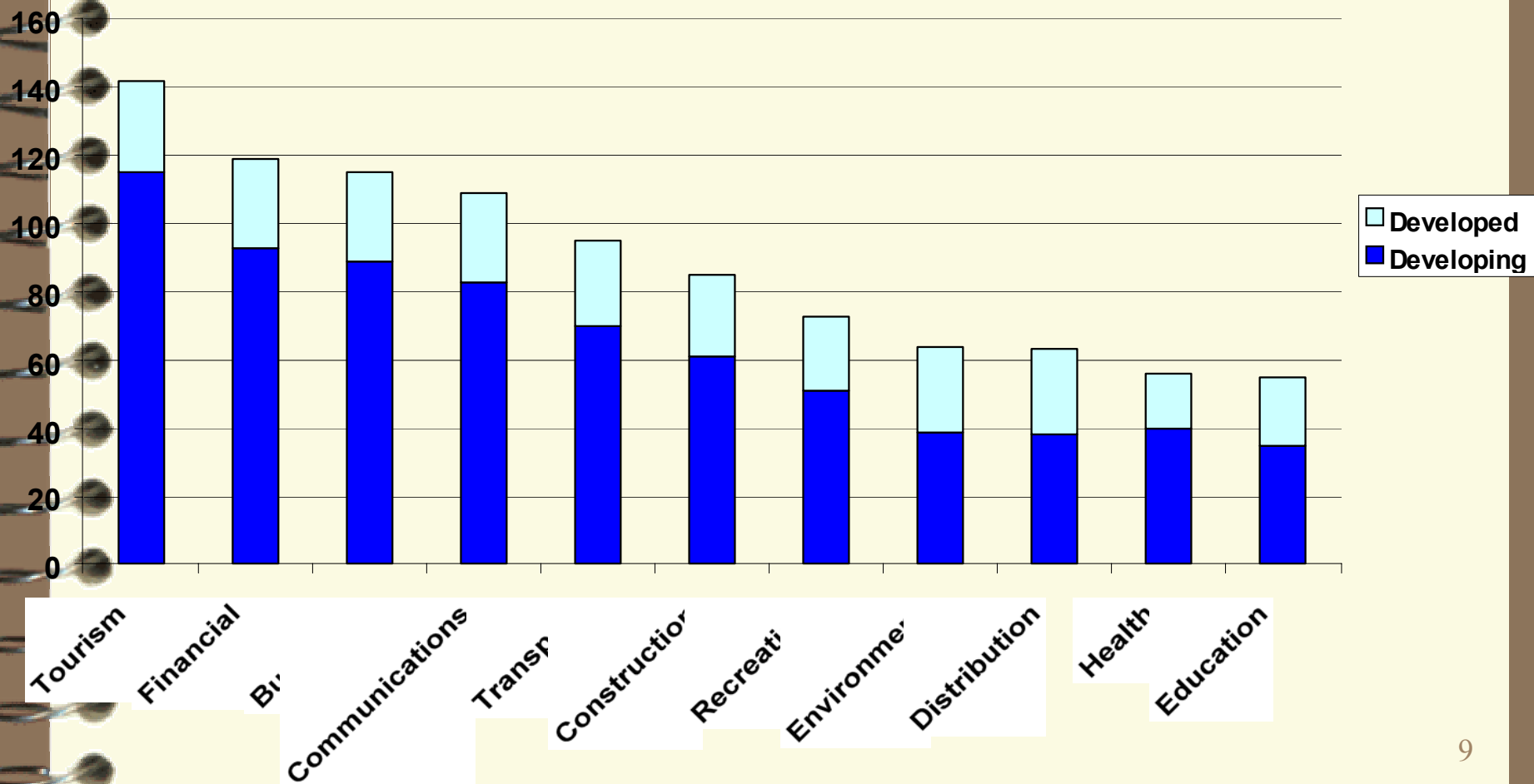
# Format of GATS schedules of specific commitments

	Modes of Supply	Limitations on Market Access	Limitations on National Treatment	Additional Comments
Sector or sub-sector	1. Cross border			
	2. Consumption abroad			
	3. Commercial presence			
	4. Presence of natural persons			



# Sector focus of current commitments

(Developed/Developing Country Members, August 2003)



# Commitments in Medical and Health Services

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	Medical and Dental Services	Nurses, Midwives, etc.	Hospital Services	Other Human Health S.
Developed Members	18	17	15	2
Developing & Least- developed Members	42	16	34	19
<b>All Members</b>	<b>60</b>	<b>33</b>	<b>49</b>	<b>21</b>

# The GATS and domestic health policy

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Major concerns are that the Agreement:

- Deprives governments of policy flexibility;
- Threatens public health services;
- Outlaws universal service obligations and subsidized supply;
- Undermines effective domestic regulation.

# Must commitments be respected at all costs?


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- The GATS allows Members to
- renegotiate their commitments against compensation
  - depart from them for health and other public policy reasons (Exception provisions)
  - or introduce restrictions to protect the Balance of Payments.

# “Governmental” Services

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 “Services provided in the exercise of governmental authority” are excluded, but the definition is not clear [“neither on a commercial basis, nor in competition with one or more service suppliers”].

# Equity concerns

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 GATS commitments would not prevent:

- o Non-discriminatory universal service obligations;
- o Non-discriminatory subsidies;
- o Non-discriminatory price regulation;
- o Other compulsory service obligations.

# Domestic Regulation

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 Agreement recognizes the right to regulate,

 But mandates negotiations:

To develop further disciplines to ensure that standards, licencing requirements, etc. are:

- based on **objective and transparent criteria**;
- **not more burdensome than necessary** to ensure the quality of the service:
- **not in themselves a restriction** on the supply of a service (licensing procedures).

# The danger of partial reform or premature liberalization

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- Weak regulatory frameworks
- Inadequate mechanisms to achieve equity goals

## **To avert the danger of adverse outcomes:**

- Tempered negotiating demands
- Increased policy research
- Increased technical and financial assistance



# Future Services Negotiations

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Mandated by the GATS - started in 2000



- Achieve progressively higher level of liberalization
- Due respect for national policy objectives and levels of development

## **Doha Ministerial Declaration:**

- Submission of initial requests by end June 2002
- Submission of initial offers by end March 2003
- Conclusion not later than 1 January 2005

# Negotiating proposals received by January 2002:

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-  Some 110 sector proposals from about 60 Members. Focus mainly on financial, communication, distribution, tourism, transport and business services, but also covering energy and environmental services and the movement of natural persons.
-  No negotiating proposals on health services submitted so far